

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF GEORGIA**  
**STATESBORO DIVISION**

RODNEY L. SCOTT,	)	
	)	
Movant,	)	
	)	
v.	)	Case No.    CV615-106
	)	CR612-018
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

Movant Rodney Scott moves under 28 U.S.C. § 2255 to vacate his conviction and sentence imposed in CR612-018, doc. 1149; *see also* doc. 1151 at 50 (“Vacate Movant’s Conviction and Sentence in this case”). The Court has yet to rule on it. Yet, Scott has filed a motion for relief pursuant to Fed. R. Civ. P. 60(b)(6). Doc. 1273. As Rule 60(b)(6) only authorizes relief from a “final judgment, order, or other proceeding” and there has not yet been any final order, judgment, or other proceeding, Scott’s motion is premature and must be denied on that basis.<sup>1</sup> *See*

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<sup>1</sup> A Rule 60(b)(6) motion is also inappropriate for seeking relief in Scott’s criminal case; Federal Rule of *Civil* Procedure Rule 60(b) does not apply to *criminal* cases. *See United States v. Mosavi*, 138 F.3d 1365, 1366 (11th Cir. 1998).

*Banks v. Sec'y, Florida Dep't of Corr.*, 491 F. App'x 966, 969 (11th Cir. 2012).

The substance of Scott's Rule 60 motion bespeaks a simple amendment to his § 2255 motion, *see* doc. 1273 (arguing that telephone conversations introduced at trial violated the confrontation clause and counsel [wa]s ineffective for failing to object to their use at trial),<sup>2</sup> which the Court will reach in a forthcoming Report and Recommendation. Otherwise, Movant Rodney L. Scott's Rule 60(b)(6) motion is **DENIED** as moot.

**SO ORDERED**, this 12th day of September, 2016.

  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA

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<sup>2</sup> Of course, the Confrontation Clause applies only to “testimonial” statements. Private conversations not made under examination are likely non-testimonial, *see United States v. Brown*, 441 F.3d 1330, 1359-60 (11th Cir. 2006), so if those statements were properly admitted, a claim for ineffective assistance of counsel is unlikely to succeed.